

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF THE ASSOCIATED
MAIL AND PARCEL CENTERS,
RETAIL SHIPPING ASSOCIATES,
THE MAIL BOX STORES, PARCEL
PLUS, KWIK COPY BUSINESS
CENTERS, YESS STORES,
POSTNET, PAKMAIL, POSTAL
CONNECTIONS, SAFE SHIP, THE
NATIONAL ALLIANCE OF RETAIL
SHIP CENTERS, AND THE
INDEPENDENT COALITION OF
FRANCHISE OWNERS, AND TOTAL
CHOICE SHIPPING

Docket No. C2012-1

April 25, 2012

**ANSWER IN OPPOSITION TO THE MOTION OF THE UNITED STATES
POSTAL SERVICE FOR DISMISSAL OF THE COMPLAINT**

Pursuant to Rule 3030.12 of the Postal Regulatory Commission's Rules of Practice and Procedure, Associated Mail and Parcel Centers (AMPC) respectfully submits this Opposition to the Motion of The United States Postal Service for Dismissal of AMPC's Complaint filed in the above captioned proceeding.

I. **INTRODUCTION/EXECUTIVE SUMMARY**

The Postal Service (USPS) bases its Motion to Dismiss on two grounds. First, the USPS argues that the issues raised in the Complaint have been resolved by the Commission in earlier proceedings, specifically Docket Nos.

MC2011-25 and CP2012-2. Second, the Postal Service argues that the Complaint is procedurally defective because it does not comply with the requirements of 39 C.F.R. § 3030.10(a)(7) to notify the Commission whether the issues presented in the Complaint were “pending in or have been resolved by an existing Commission proceeding.”

Each of these grounds is incorrect as will be shown below,

A. The issues raised by AMPC have not been resolved by the Commission in earlier proceedings (Docket Nos. MC2011-25 and CP2012-2). The AMPC Complaint presents new issues which the Commission has stated must be considered in another proceeding if and when the USPS wants to institute these new services/enhancements. See PRC Order 473 at 10 -1, Order 603 at 8 and USPS filing MC2010-20 at 1.

B. The USPS further alleges that the AMPC Complaint is procedurally defective by failing to notify the Commission whether the issues presented in its complaint were “pending in or have been resolved by an existing Commission proceeding.” This is also incorrect. The Complaint specifically states these issues are new and not pending in any other existing Commission proceeding. See Complaint at 16.

Therefore, the USPS Motion to Dismiss this Complaint must be denied and the USPS must be ordered to answer the Complaint pursuant to Commission Rules.

II. **ARGUMENT**

A. The issues raised in the Complaint have **not** been resolved by the Commission in earlier proceedings.

In fact, these are new issues which both the Commission and the USPS have acknowledged in a prior order and filing that must be considered by the

Commission if and when new services or enhancements to competitive PO Box services are proposed by the USPS. But the USPS has failed to comply with the Commission order, postal laws and regulations and its own previous statement in its filings before this Commission.

The Postal Service alleges in its Motion to Dismiss that the issues raised by AMPC's Complaint were resolved in Docket No. MC2011-25. The Postal Service argues that it specifically discussed its intent to enhance services at certain competitive locations in its request to the Commission. The Postal Service is basing this argument on the section of the request where it said,

“For example, customers support the expansion of lobby hours so that they can have more convenient access to their mail. Customers also like the ability to leave a signature on file so that an item requiring a signature can be placed in a box or parcel locker. Also, customers who acquire a box in a competitive location can take advantage of the Baker's Dozen pricing offer.”

This mention of enhancements does not reflect nor indicate the actual enhancements to which the Complaint refers. As noted by the Postal Service in its Motion to Dismiss, the Complaint specifically is about the street-style addressing, email notification of mail delivery, and the ability to receive packages from private carriers. These enhancements are not mentioned as examples by the Postal Service in Docket No. MC2011-25. These enhancements are also on a more significant level than the examples provided in the Postal Service request. In its Motion to Dismiss, the Postal Service argues that, “the Commission acknowledged the Postal Service's intent to enhance its competitive Post Office Box service.” The Postal Service is arguing that by

allowing expanded access lobby hours, the Commission has granted approval to the Postal Service to enact any other “enhancement” it would like without any notification to or consideration by the Commission and/or the public. This mention of enhancements by the Postal Service in Docket No. MC2011-25 does not represent a request to offer street-style addressing or the other enhancements specifically mentioned in the Complaint. Therefore, this USPS argument fails and is not grounds for dismissal.

The Postal Service also argues that it mentions these enhancements in Docket No. CP2012-2. The Postal Service claims it provided the required costing information in that Docket, specifically addressing street-style addressing and real mail notification. In the Motion to Dismiss, the Postal Service quotes the segment of Docket No. CP2012-2 it claims specifically addresses these enhancements. The segment concerning street-style addressing is, “such as setting up the street address option and the costs associated with making physical changes to the locations.” The segment concerning real mail notification states, “costs will be calculated by reporting the number of e-mail or text notifications to customers.” AMPC has reviewed this entire docket and all the filings by USPS or otherwise. There is no further information to support any of the cost information unless such information was filed under seal. Further this information does not refer to or relate the service enhancements which the USPS has now instituted.

This is nothing more than a mere mention in a footnote of general data crunching which the USPS “will develop and report costs for service

enhancements offered at competitive P.O. Box Service locations, when it proposes to change prices for competitive P.O. Box Service.” Notice of USPS Changes in Rates of General Applicability for Competitive Products CP2012-2 at 2. fn1.

This footnote does not meet the requirements of Commission Order 473 at 8 and 9 or the USPS own statement in MC 2010-20 at 1. Both of these state the same premise: that when the USPS changes the services in its competitive PO Boxes, it will come to the Commission with a detailed description of these new, **proposed** services and the public and the Commission will be provided information on the services and detailed costing data before the Postal Service institutes these services. Instead the USPS ignores the Commission’s Order 473, postal laws and regulations, and its own statements and has forged ahead with these new services and enhancements with no Commission oversight or approval as required by law.

This is particularly true given the lack of any examples in Docket No. MC2011-25 related to street-style addressing or real mail notification. Offering street-style addressing and real mail notification is a **major** change in the P.O. Box service and hardly one that could have been predicted or foreseen by competitors or the public given the vague and undefined references mentioned above. Therefore, this argument is groundless and is no basis for dismissal.

B. The Complaint is not procedurally defective because it complies with 39 C.F.R. § 3030.10(a)(7)

The Postal Service argues fruitlessly that dismissal is appropriate because the Complaint did not disclose Docket Nos. MC2011-25 and CP2012-2 to the Commission. The Complainants do not believe that either Docket makes any mention of the issues raised by the Complaint. As such, the Complainants do not believe the issues presented in their Complaint are “pending in or have been resolved by an existing Commission proceeding.” This is yet again a demonstration of the USPS desire to avoid any Commission oversight on the adding of new services and enhancement to the competitive PO Box category.

The Complaint specifically complied with the requirements of the Commission’s Rules of Practice and Procedure 3030.10(a)(7) by stating that no existing Commission proceeding is dealing with the issues raised by this Complaint. Now even though unnecessary, the Complainants restate this position and state that no prior or existing Commission proceeding or any other proceeding in any other forum is dealing with the issues raised by this Complaint. Therefore, the Complaint is not procedurally defective and should not be dismissed.

III. **Conclusion**

The Postal Service’s Motion to Dismiss is based on the premise that the enhancements specific to the Complaint have received prior Commission approval. The Complaint argues the exact opposite: that the Postal Service has not filed with the Commission the required information and has not received prior approval to the new services and enhancement specific to the Complaint. In its Motion to Dismiss, the Postal Service attempts to rest its argument on the

fact that AMPC and others did not comment on Docket Nos. MC2011-25 and CP2012-2, although AMPC and others did comment on other dockets. Clearly, this shows that the Postal Service made no mention of these new services and enhancements. The Dockets provide no indication of Commission consideration or approval for now instituted USPS new services and enhancements specific to the Complaint. This is further buttressed since USPS can cite no Order in either Docket or any other Docket where these new services and enhancements were even mentioned, much less considered and approved by the Commission under its Rules of Practice and Procedure.

Since both the Commission and USPS acknowledge that these PO Boxes are competitive and that the USPS has competitors in the PO Box competitive market, the USPS Motion to Dismiss must be denied and the USPS must file its Answer to the Complaint of Associated Mail and Parcel Centers, et.al. The public and USPS competitors must be allowed the proceedings which are required under postal laws and regulations and the Commission's prior orders.

Wherefore, based on the foregoing, AMPC requests the Commission to deny the Postal Services' Motion to Dismiss.

Respectfully submitted,

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